REMARKS

In response to the final Office Action dated May 2, 2005, Assignee respectfully requests reconsideration based on the above claim amendments and the following remarks. The Assignee respectfully submits that the pending claims distinguish over the cited references.

The United States Patent and Trademark Office (the "Office") rejected claims 1-2, 6, 10-13, 17-20, 22, and 23 under 35 U.S.C. § 102 (e) as being anticipated by U.S. Patent 5,973,683 to Cragun. Claim 3 was rejected under 35 U.S.C. § 103 (a) as being unpatentable over *Cragun* in view of U.S. Patent 5,481,296 to Cragun. Claims 4-5, 8-9, 14-16, 21, and 24-28 were rejected under 35 U.S.C. § 103 (a) as being unpatentable over *Cragun '683* in view of U.S. Patent 6,675,384 to Block *et al.*

The Assignee shows, however, that the amended claims are neither anticipated nor obviated by the cited documents. The Assignee thus respectively submits that the pending claims distinguish over the cited documents.

Rejection of Claims under § 102 (e)

The Office rejects claims 1-2, 6-7, 10-13, 17-20, 22, and 23 under 35 U.S.C. § 102 (e) as being anticipated by U.S. Patent 5,973,683 to Cragun. A claim is anticipated only if each and every element is found in a single prior art reference. *See Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q. 2d (BNA) 1051, 1053 (Fed. Cir. 1987). *See also* DEPARTMENT OF COMMERCE, MANUAL OF PATENT EXAMINING PROCEDURE, § 2131 (orig. 8th Edition) (hereinafter "M.P.E.P."). As the Assignee shows, however, the pending claims distinguish over *Cragun '683*. The reference to *Cragun '683* does not disclose every feature recited in the claims, so the Assignee respectfully requests removal of the § 102 (e) rejection.

The independent claims are not anticipated by *Cragun '683*. The independent claims all recite "program control data *having a data format in which a default entry is subsequently*

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followed by a series of data records, with each data record associated with a particular portion of the program, each data record having a linear representation comprising an offset time stamp, a rating value, a content attribute value, a component value, and an action." Support for such features may be found at least at Table II, page 14, at page 14, line 5 through page 15, line 6, and at page 15, lines 10-13. Independent claim 1 is reproduced below, and independent claims 11, 18, and 24 recite similar features.

1.   (Currently Amended) A system for controlling and managing presentation to viewers of programming content, the system comprising:

    a.   a receiver adapted to receive a signal corresponding to a program and program control data, the program control data having a data format in which a default entry is subsequently followed by a series of data records, with each data record associated with a particular portion of the program, each data record having a linear representation comprising an offset time stamp, a rating value, a content attribute value, a component value, and an action;

    b.   a viewer interface adapted to receive information related to program presentation preferences of a viewer; and

    c.   a processor adapted (1) to modify the program based on the program control data and (2) to output the modified program for presentation on a display device.

Cragun '683 does not anticipate such features. *Cragun* describes a computer that receives or downloads program ratings (or "content classification values"). The computer may then compare the program ratings to user thresholds and control a receiver or TV. No where, however, does *Cragun '683* describe "*program control data having a data format in which a default entry is subsequently followed by a series of data records, with each data record associated with a particular portion of the program, each data record having a linear representation comprising an offset time stamp, a rating value, a content attribute value, a component value, and an action.*" The '683 patent to Cragun *et al.*, then, cannot anticipate the independent claims and, thus, the corresponding dependent claims. Examiner Brown is respectfully requested to remove the rejection.

Rejection of Claims under § 103 (a)

Claim 3 was rejected under 35 U.S.C. § 103 (a) as being unpatentable over *Cragun '683* in view of U.S. Patent 5,481,296 to Cragun. Claims 4-5, 8-9, 14-16, 21, and 24-28 were rejected under 35 U.S.C. § 103 (a) as being unpatentable over *Cragun '683* in view of U.S. Patent 6,675,384 to Block *et al.* If the Office wishes to establish a *prima facie* case of obviousness, three criteria must be met: 1) combining prior art requires "some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill"; 2) there must be a reasonable expectation of success; and 3) all the claimed limitations must be taught or suggested by the prior art. DEPARTMENT OF COMMERCE, MANUAL OF PATENT EXAMINING PROCEDURE, § 2143 (orig. 8ᵗʰ Edition) (hereinafter "M.P.E.P."). As the Assignee shows, the *'683* and *'296* patents to Cragun, and the patent to Block *et al.*, whether combined or singularly, fail to teach or suggest all the features recited in claims 3-5, 8-9, 14-16, 21, and 24-28.
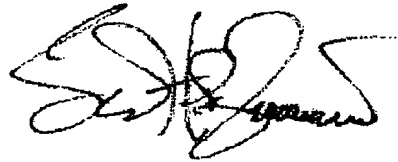
Claims 3-5, 8-9, 14-16, 21, and 24-28 are not obvious. These claims depend from their respective base claims and thus incorporate the same distinguishing features. Nowhere, for example, do the *'683* and *'296* patents to Cragun, and the patent to Block *et al.*, describe "*program control data having a data format in which a default entry is subsequently followed by a series of data records, with each data record associated with a particular portion of the program, each data record having a linear representation comprising an offset time stamp, a rating value, a content attribute value, a component value, and an action.*" Because the cited patents fail to teach or suggest such features, one of ordinary skill in the art would not think the claims are obvious. The Assignee thus respectfully requests that Examiner Brown remove the 35 U.S.C. § 103 (a) rejection of claims 3-5, 8-9, 14-16, 21, and 24-28.

If any issues remain outstanding, the Office is requested to contact the undersigned at (919) 387-6907 or *scott@wzpatents.com*.

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Respectfully submitted,

Scott P. Zimmerman
Attorney for the Assignee, Reg. No. 41,390

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